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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/796,756

03/08/2004

Adrian P. Stephens

42P18412

4365

59796

7590

08/01/2008

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EXAMINER

YOUNG, JANELLE N

ART UNIT

PAPER NUMBER

2618

MAIL DATE

DELIVERY MODE

08/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|---|--------------------------------------|--|--|
| Advisory Action Before the Filing of an Appeal Brief | Application No. 10/796,756 | Applicant(s) STEPHENS ET AL. | |
| | Examiner Janelle N. Young | Art Unit 2618 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-27.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☒ Other: See Continuation Sheet.

/Nay A. Maung/
 Supervisory Patent Examiner, Art Unit 2618

/Janelle N. Young/
 Examiner, Art Unit 2618

Continuation of 13. Other: Office Action Mailed on March 17, 2008 was a Final Office Action.

Feuerstein et al. teaches a method for adaptive transmit power control in wireless devices wherein the network traffic parameter is based on an observed capacity; which reads on claimed volume, of communications. Feuerstein et al. discloses that optimized network parameters may be provided to any combination of network elements including mobile units and base stations. For example, network parameters adjusted at a base station according to the present invention may include transmit power or receive sensitivity with respect to the cell, or a sector or beam, power control parameters, such as thresholds, target settings, and operating ranges, and GOS metrics, such as BER, FER, voice quality, data throughput, packet success probabilities, dropped call rates, and call origination or termination success rates. Additionally, the network parameters adjusted at the base station may include sector orientation/rotation, sector or beam outboard reach, through attenuation or gain adjustment and/or antenna downtilt/uptilt. Systems and methods providing adjustable sector orientation and sizing suitable for use. (Col. 2, line 26-Col. 3, line 54; in respect to Col. 1, lines 40-52 and Col. 8, lines 11-45 of Feuerstein et al.). Nakamura et al. teaches wire line data transmission scheme in a mobile communication system for reducing the wire line transmission const. Radio state qualities of a plurality of radio channels between the plurality of base stations and the mobile station are measured, and a validity and a redundancy in composition of each radio channel is judged according to the corresponding measured radio state quality. Then, a transmission in the wire line transmission paths is controlled by stopping a transmission of transmission signals for those radio channels which are judged as invalid or redundant according to the obtained judgment result. All of measuring, judging, and controlling can be carried out by each base station, or by the mobile station. Also, measuring and judging can be carried out by the mobile station while controlling is carried out by each base station, or measuring can be carried out by the mobile station while judging and controlling can be carried out by each base station; which reads on claimed limitation "performing, within a mobile station in a wireless communication operations", because Nakamura et al. scheme is operated in a mobile communication system. .